

# BERNSTEIN CLARKE & MOSKOVITZ

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Andrew M. J. Bernstein  
Lance A. Clarke  
Joshua S. Moskovitz

September 21, 2018

**BY ECF**

Magistrate Judge Vera M. Scanlon  
United States District Court  
Eastern District of New York  
225 Cadman Plaza East, 1214 South  
Brooklyn, New York 11201

Re: *Hines et al. v. City of New York et al.*, No. 18-cv-4678 (JBW) (VMS)

Your Honor,

I write to request a second extension of Plaintiffs' time to serve defendants and file proof of service of the scheduling order for the initial conference in this matter.

On September 14, 2018, I requested Plaintiffs' first extension of time because I did not yet have confirmation of service for defendants Greico and Cybulski (ECF Doc. 13). On September 17, 2018, the Court granted my request. I have now received proof of service that defendant Grieco was served with the court's scheduling order on September 14. The proof of service is annexed to this letter.

I have not yet been able to serve defendant Cybulski. As I explained in my September 14 letter:

on September 11, our process server attempted unsuccessfully to serve defendant Cybulski at his current NYPD command, Patrol Borough Manhattan South ("PBMS"), located at 230 East 21st Street. When our process server went to that location, a Police Officer Vega told him that Officer Cybulski did not work there. On September 12, we contacted the NYPD "Wheel" and were told again that Officer Cybulski's current command is PBMS. Accordingly, I instructed our process server to return to the 21st Street offices of PBMS and again attempt to serve Officer Cybulski.

On September 17, I was told that my process server again could not complete service at the 21st Street offices of PBMS. That same day, I received an email from Susan Scharfstein, counsel for defendant City of New York, informing me that Officer Cybulski should be served at a location on 42nd Street. Accordingly, I dispatched my process server to that location but he was turned away when he attempted to serve Officer Cybulski there on September 20.

I conveyed this information to Ms. Scharfstein and she informed me that she made further inquiries into completing service on Officer Cybulski. Ms. Scharfstein indicated that my process

server could serve Officer Cybulski at the 42nd Street location if I provided her with a date and window of time next week that my process server would arrive so that arrangements could be made to ensure that process will be accepted at that time. I am making such arrangements and expect to provide Ms. Scharfstein with a date and time on Monday, September 24.

Accordingly, Plaintiffs request a second extension, until September 28, to complete service of the Court's scheduling order on Officer Cybulski. I also request leave to serve the Court's September 17 order (instead of the earlier September 10 order), which rescheduled the initial conference to November 8, 2018.

I appreciate the Court's attention to this request.

Sincerely,

A handwritten signature in dark ink, appearing to read 'J. Moskowitz', with a stylized flourish at the end.

Joshua S. Moskowitz

cc: Susan Scharfstein (by ECF)

Enc.

U.S. DISTRICT COURT OF THE STATE OF NEW YORK  
EASTERN-NY COUNTY

SHERRY HINES, MONIQUE HINES AND CARL WAITES

vs

THE CITY OF NEW YORK, ET AL

Plaintiff

Defendant

N  
COURT DATE & TIME: AT  
INDEX #: 1:18 CV 04678-JBW-VMS  
DATE FILED: 08/27/2018  
Job #: 486844  
Client File#

BERNSTEIN CLARKE & MOSKOVITZ PLL  
11 PARK PLACE STE 914  
NEW YORK, NY 10007

CLIENT'S FILE NO.:

AFFIDAVIT OF SUITABLE SERVICE

STATE OF NEW YORK: COUNTY OF QUEENS ss:

DAVID FELDMAN, being duly sworn deposes and says deponent is not a party to this action and is over the age of eighteen years and resides in the state of New York.

That on 9/14/2018 at 2:16 PM at 2820 SNYDER AVENUE, BROOKLYN, NY 11226 deponent served the within ORDER GRANTING PLAINTIFF'S MOTION TO ADJOURN CONFERENCE on SGT DAVID GRIECO TAX ID 940216 67TH PRECINCT therein named

After your deponent was unable with due diligence to serve the recipient by personal delivery, service was made by delivering a true copy thereof to and leaving with "JANE" BACCHEIS CO-WORKER a person of suitable age and discretion at 2820 SNYDER AVENUE, BROOKLYN, NY 11226 said premises being the recipient's actual place of business within the State of New York.

Deponent completed service by depositing a copy of the documents listed above on 09/18/2018 in a postpaid, properly addressed envelope by first class mail, bearing the legend Personal & Confidential and not indicating legal action, in an official depository under the exclusive care and custody of the United States Post Office in the State of New York.

Mailing was made to 2820 SNYDER AVENUE, BROOKLYN, NY 11226

Deponent previously attempted to serve the above named individual on

Said documents were conformed with index number and date of filing endorsed thereon.

A description of the person served on behalf of the defendant is as follows:

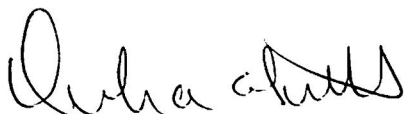
Approx Age: 51 - 65 Yrs., Approx Weight: 131-160 Lbs., Approx Height: 5ft 0in - 5ft 3in, Sex: Female, Approx Skin: Black, Approx Hair: Black

Other:

REFUSED TO GIVE FULL FIRST NAME

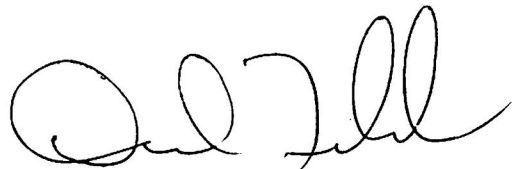
Deponent spoke to "JANE" BACCHEIS

Inquired as to the SGT DAVID GRIECO TAX ID 940216 67TH PRECINCTs place of business and received a positive reply and confirmed the above address of SGT DAVID GRIECO TAX ID 940216 67TH PRECINCT and asked whether SGT DAVID GRIECO TAX ID 940216 67TH PRECINCT was in active military service of the United States or the State of New York in any capacity, or is a dependant of anyone in the military and received a negative reply and that the SGT DAVID GRIECO TAX ID 940216 67TH PRECINCT always wore civilian clothes and no military uniform. The source of my information and the grounds of my belief are the conversations and observations above narrated. Upon information and belief I aver that the SGT DAVID GRIECO TAX ID 940216 67TH PRECINCT is not in the military service of New York State or of the United States as that the term is defined in either the State or in Federal statutes.

  
Sworn to before me on 09/18/2018  
DEBRA A SCOTT 01SC6137374

Notary Public State of NEW YORK  
QUEENS County, Commission Expires 11/21/21





DAVID FELDMAN  
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